

Officer History

Officer Name: Pulice, David

Tax ID: 930988

Sex: M

Shield: 04711

Race: White

Rank: DT3

Command: 348

DOB: [REDACTED]

Appt Date: 07/01/2002

Age: [REDACTED]

Tenure: 18

CCRB #	Report Date	Incident Date	Allegation	Disposition	NYPD Disposition	NYPD Penalty	Command
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]			[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]			[REDACTED]
200411089	11/05/2004	11/05/2004	Abuse - Refusal to provide name/shield number	Substantiated (Command Discipline)	Instructions	Instruction	101
200513054	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]			[REDACTED]
[REDACTED]	10/31/2005	07/15/2005	Discourtesy - Word	Unsubstantiated			101
200606723	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]			[REDACTED]
[REDACTED]	05/24/2006	05/20/2006	Abuse - Vehicle search	Substantiated (Charges)	Instructions		101
201205372	04/27/2012	04/26/2012	Abuse - Vehicle search	Substantiated (Command Discipline)	No Disciplinary Action-SOL		185
[REDACTED]	04/27/2012	04/26/2012	Force - Physical force	Unsubstantiated			185
Total Charges = 9					Total Cases = 5		

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Janet Gooding	Team: Team # 4	CCRB Case #: 200411089	<input type="checkbox"/> Force <input type="checkbox"/> Discourt. <input type="checkbox"/> U.S. <input checked="" type="checkbox"/> Abuse <input type="checkbox"/> O.L. <input type="checkbox"/> Injury
Incident Date(s) Fri, 11/05/2004 6:25 PM	Location of Incident: 250 Beach 17th Street, Far Rockaway	Precinct: 101	S.O.L. Expires: 05/05/2006
Date/Time CV Reported Fri, 11/05/2004 9:10 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Fri, 11/05/2004 9:10 PM

Complainant/Victim	Type	Home Address
1. [REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM David Pulice	08184	930988	101 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2. SGT [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
A . POM David Pulice	Abuse of Authority: PO David Pulice refused to provide his name and shield number to [REDACTED]	A . Substantiated

Synopsis

Sometime after 6 p.m. on November 5, 2004, [REDACTED] [REDACTED] a resident of the Brookhaven Rehabilitation Center, in Far Rockaway, Queens, called 911 to complain that a male resident at the facility was stalking her. Police Officers [REDACTED] [REDACTED] and David Pulice responded to the call. The officers determined that the matter did not fall within NYPD's jurisdiction and referred the matter to the facility's administration.

Ms. [REDACTED] alleges that PO Pulice refused to clearly state his name and shield number upon her request. She stated that when she asked PO Pulice for his name and shield number, he told her to read the information off of his nameplate. Ms. [REDACTED] put on her eyeglasses but still could not read the information on the nameplate. She then requested that PO Pulice state his name and shield number, or come closer to her, but PO Pulice refused to state his name saying, "Well if you can't see it, that's your problem."

The evidence indicates that PO Pulice violated Patrol Guide procedure 203-09, when he failed to clearly state his name and shield upon Ms. [REDACTED] request, and did not allow her ample time to note the information. It is therefore recommended that allegation A be substantiated.

Summary of Complaint

[REDACTED] [REDACTED] Daily Journal

Ms. [REDACTED] keeps a daily journal and logs her activities and contacts. Among her record of her activities on November 5, 2005, she indicated that resident "Dixon" (whom she complained to police about), threw her door open at 6:25 p.m. That Officer Tynon (sic) 28101(arrived) and other officer (her partner) wouldn't give his name and shield number. At 6:48 p.m. 911 operator number 2005 is sending previous officers' supervisor. At 7:50 p.m., "Dixon" is out in the hall saying that he is Bundy (as in Ted Bundy) ... IAB 1411 operator. Discourtesy Civilian Complaint Review Board [no time indicated]. At 8:55 p.m., "Tynon" is here with sergeant from 101 Pct. They are both out in the hall laughing, thinking this is very funny. Sgt. [REDACTED] "shield or badge" 170. He waited until report was over and came in. Officer Tynon waited out of sight at doorway. Sgt. Abernathy (sic) said why did I call 911 2nd time. "I said for you to ask you what I was told about an order to get an order of protection. I needed a police and they weren't going to make one & I told him about the discourtesy by the tall dark hair officer by telling me 'if I couldn't see his shield number and his name because of my poor eyesight, that was my problem' and left. Sergeant Abernathy (sic) will speak to nursing supervisor and maybe Dixon."

Ms. [REDACTED] journal entries regarding this investigator's visit to obtain a statement are as follows: At 2:10 p.m., Inps. (sic) Gooding & Sands came to take a recorded statement or deposition of the incident with the male police officer that came with the female officer, [REDACTED] when I called 911 when Dixon threw my door open for the 3rd or 4th time. Insp. Gooding is also the Commissioner of Deeds as witness to my statement deposition that I signed at the end of the interview. Call if I have questions of if I move...(enclosures 4 – 4B).

[REDACTED] [REDACTED] Statement

The complainant, [REDACTED] [REDACTED] a 61 year-old disabled woman, resides at the Brookhaven Rehabilitation and Healthcare Center, located at 250 Beach 17th Street, also known as Gadell Place, in Far Rockaway, Queens. During her CCRB interview on November 18, 2004, Ms. [REDACTED] provided the following details:

Ms. [REDACTED] had been having problems with a male resident of the center named, Dixon. Ms. [REDACTED] stated that Dixon had been making offensive remarks towards her and

would often open the door to her private room and scream at her. Sometime after 6 p.m. on November 5, 2004, Ms. [REDACTED] called 911 to report that Dixon had been stalking her. Two police officers, PO [REDACTED] [REDACTED] and a male officer, identified through the investigation as PO David Pulice, responded to the call. Ms. [REDACTED] sat on the side of her bed while PO [REDACTED] spoke to her from the foot of her bed. PO Pulice stood approximately six feet away from the bed.

When Ms. [REDACTED] relayed her complaint to PO [REDACTED] the officer said that a report could not be prepared because the management of the center was responsible for patient security. PO [REDACTED] explained that had the incident occurred outside the facility, a police report would have been prepared. Ms. [REDACTED] was reluctant to accept PO [REDACTED] explanation. However, she asked PO [REDACTED] for her name and shield number and PO [REDACTED] complied with the request. Ms. [REDACTED] then asked PO [REDACTED] partner, PO Pulice, for his name and shield number. The officer pointed to his nameplate and said, "It's right here." Ms. [REDACTED] put on her eyeglasses but could not read the name off of the officer's nameplate. She asked PO Pulice to come closer to her so she could read the information, or else just state his name and shield number. PO Pulice responded, "Well if you can't see it, that's your problem." He then started to walk out of the room and Ms. [REDACTED] said to PO [REDACTED] "Please wait. Tell me his name and shield number." PO [REDACTED] pushed the officer out of the room and they both left.

Ms. [REDACTED] was not satisfied with the manner in which the officers handled her complaint and she also wanted to file a complaint because of the officers' behavior towards her. She again called 911 and requested a supervisor. After waiting for about an hour and a half without a supervisor showing up, Ms. [REDACTED] decided to file a CCRB complaint by telephone.

As Ms. [REDACTED] was providing her complaint information via CCRB's automated call-processing system, a sergeant, whose name she obtained as Sergeant ([REDACTED] [REDACTED] and PO [REDACTED] came to her door. Ms. [REDACTED] informed the sergeant that she was filing a complaint with the CCRB but invited him into the room anyway. Sergeant [REDACTED] told Ms. [REDACTED] that he would just wait outside until she had finished filing her complaint. According to Ms. [REDACTED] PO [REDACTED] started laughing and Ms. [REDACTED] remarked "I can't believe that they both think this is a joke."

When she was finished filing her complaint, Ms. [REDACTED] invited the officers into her room. She relayed her complaint to Sergeant [REDACTED] whose name she requested, about the resident and about the previous interaction with PO [REDACTED] and PO Pulice. The sergeant promised to speak with the nursing supervisor about the problem resident. He left the allegation against PO Pulice to the CCRB as Ms. [REDACTED] had already filed her complaint with the agency. Both he and PO [REDACTED] then left the location (see [REDACTED] [REDACTED] interview report, enclosures 5 – 5A).

Results of Investigation

Police Officer Identification

The complainant obtained PO [REDACTED] [REDACTED] and Sergeant [REDACTED] [REDACTED] names at the time of the incident. PO David Pulice was identified through departmental records. The officers clarified their involvement in the incident during their CCRB interviews.

PO David Pulice's Statement

PO David Pulice was interviewed at the CCRB on February 2, 2005. On the date of incident, November 5, 2004, PO Pulice was assigned to Sector G with PO [REDACTED] [REDACTED]. His tour of duty was 1600 x 0057 (4 p.m. – 12:57 a.m.) His memo book entries indicate: 1810 hours, 10-39 (criminal mischief) 250 B. 17th Street. At t/p/o c/v states that she wants police report for stalking because another resident knocked on her door. At 1852 hours 10-90 Y1 (unnecessary) no 10-39. At 2046 – 250 Gadell Place with traffic sergeant. At t/p/o c/v was on phone with CCRB

because my partner had explained to her earlier that no police report was necessary because it (her complaint) was not stalking and it wasn't even harassment. C/v told traffic sergeant that other resident is EDP. Traffic sergeant told c/v it wasn't police matter and referred c/v to head nurse. At 2110 – 90 Y1 (see enclosures 7 – 7C).

At his CCRB interview on February 2, 2005, PO David Pulice stated that at about 6:10 p.m., on November 5, 2005, he and his partner, PO [REDACTED] responded to a call made by [REDACTED] a resident of the Brookhaven Rehabilitation Center in Far Rockaway, Queens. Ms. [REDACTED] complained that a male resident of the facility habitually knocked on her door then walked away and she wanted to file a stalking complaint against him.

PO Pulice stated that he and his partner spoke to nurses at the facility and found that the resident that Ms. [REDACTED] complained about, uses a wheelchair and bangs on the walls as he wheels himself along the hallway. PO [REDACTED] explained to Ms. [REDACTED] that the resident's behavior did not constitute stalking and that the matter was not a police matter but an internal one. Ms. [REDACTED] did not want to accept the officers' explanation and accused them of not doing their jobs properly.

PO Pulice stated that he and PO [REDACTED] spoke to a nurse about Ms. [REDACTED] complaint. The nurse told them that Ms. [REDACTED] was a chronic complainer. However, they asked the nurse to take care of the problem and they left the location.

PO Pulice admitted that Ms. [REDACTED] requested his and his partner's names and shield numbers during the incident. He stated that they both provided the information to Ms. [REDACTED] PO Pulice stated that he pointed to his uniform's nameplate and he also stated the information in a clear tone of voice. He also stated that he was standing next to PO [REDACTED] while in Ms. [REDACTED] room and that Ms. [REDACTED] could clearly see the badge. He denied that Ms. [REDACTED] told him that she could not see the shield number and asked him to come closer to her. PO Pulice denied telling Ms. [REDACTED] that "it was her problem" if she could not see his nameplate.

PO Pulice responded to the location later that night when Ms. [REDACTED] called for a supervisor. However, he did not go to Ms. [REDACTED] room during that response and had no contact with her (see PO David Pulice's interview report, enclosures 8 – 8A).

PO [REDACTED] Statement

On November 5, 2004, PO [REDACTED] was assigned to Sector G with PO David Pulice. Her tour of duty was 1500 x 2335 hours (3 p.m. – 11:35 p.m.). PO [REDACTED] memo book entries relating to this incident are as follows: 1840 – [10] 39 [criminal mischief] 250 Gadell Place (Beach 17th Street). At t/p/o c/v states that she wants police report for stalking because another resident knocked on her door, possible EDP. At 1852 90 Y (unnecessary) no 39. At 2046 – 250 Gadell Place w/ traffic sergeant. At t/p/o, c/v was on phone with CCRB because I had explained to her earlier that no police report was necessary because it (her complaint) wasn't stalking and it wasn't even harassment. C/v told traffic sergeant that other resident is EDP. Traffic sergeant told c/v it wasn't police matter and referred c/v to head nurse (enclosures 9 – 9B).

At her CCRB interview on February 2, 2005, PO [REDACTED] provided a similar statement to PO Pulice's as to the radio call that led them to the Brookhaven Rehabilitation Center, and Ms. [REDACTED] complaint against a male resident. As to Ms. [REDACTED] request for her and PO Pulice's names and shield numbers, PO [REDACTED] stated that she provided the information to Ms. [REDACTED] and she saw her write down the information in a book. PO [REDACTED] stated that PO Pulice also clearly provided his name and shield number to Ms. [REDACTED] and also saw Ms. [REDACTED] write down his information. She denied seeing PO Pulice point to his nameplate when Ms. [REDACTED] requested his information and denied hearing him tell Ms. [REDACTED] that it was "her problem" if she could not read his nameplate. PO [REDACTED] stated that she did not hear Ms. [REDACTED] tell PO Pulice that she could not read his name and shield number.

She did not recall hearing Ms. [REDACTED] tell PO Pulice to come nearer to her so that she could read the information off of his nameplate. PO [REDACTED] denied that Ms. [REDACTED] asked her for her partner's information.

PO [REDACTED] stated that she responded back to Ms. [REDACTED] room a second time on November 5, 2004, because Ms. [REDACTED] requested a supervisor. During that response, PO [REDACTED] stated that PO Pulice remained inside the patrol car, while she and Sergeant [REDACTED] went to Ms. [REDACTED] room. When they entered the room, PO [REDACTED] heard Ms. [REDACTED] describing her over the telephone while she was filing a complaint with the CCRB. PO [REDACTED] stated that she remained near the doorway. She denied having any contact with Ms. [REDACTED] during the second response (see PO [REDACTED] [REDACTED] interview report, enclosures 10 – 10A).

Sergeant [REDACTED] [REDACTED] Statement

On November 5, 2004, Sergeant [REDACTED] [REDACTED] was in charge of highway safety and worked from 1600 x 0057. He did not have a partner. Sergeant [REDACTED] did not make memo book entries for this incident.

During his CCRB interview on February 3, 2005, Sergeant [REDACTED] stated that he responded to the Brookhaven Rehabilitation Center, at approximately 9 p.m. on November 5, 2004, with PO [REDACTED] and PO Pulice, regarding [REDACTED] [REDACTED] request for a supervisor. Sergeant [REDACTED] stated that when they arrived on Ms. [REDACTED] floor, PO [REDACTED] and PO Pulice remained outside Ms. [REDACTED] room, while he went into the room to speak with Ms. [REDACTED]. However, he heard Ms. [REDACTED] on the telephone filing a CCRB complaint and he waited at the door until she had finished filing the complaint. Sergeant [REDACTED] denied PO [REDACTED] laughed at Ms. [REDACTED] while she was filing the complaint.

Sergeant [REDACTED] took Ms. [REDACTED] stalking complaint and he recalled that she also complained that PO [REDACTED] and PO Pulice were rude to her. Sergeant [REDACTED] could not recall specifically how Ms. [REDACTED] felt that the officers were rude, but he left the matter up to the CCRB as Ms. [REDACTED] had already filed a complaint with the agency. He told her that he would address the problem about the resident with the nursing staff.

At some point during his visit, Ms. [REDACTED] asked Sergeant [REDACTED] for his name, asked him to spell it and she wrote down the information. Sergeant [REDACTED] left Ms. [REDACTED] room, spoke to a nurse about the stalking complaint, and then left the location (see Sergeant [REDACTED] interview report, enclosures 12 – 12A).

Complainant Criminal Conviction History

There are no criminal convictions against [REDACTED] [REDACTED]

Subject Officer CCRB History

There are no substantiated cases on PO David Pulice's CCRB history.

Conclusions and Recommendations

Undisputed Facts

Sometime around 6:30 p.m. on November 5, 2004, PO [REDACTED] [REDACTED] and PO David Pulice went to room 321 at the Brookhaven Rehabilitation Center in Far Rockaway, Queens, to speak with [REDACTED] [REDACTED] regarding her 911 call of a stalking complaint. It is undisputed that Ms. [REDACTED] requested the officers' names and shield numbers and obtained information of the responding officers, except PO Pulice's name and shield number. The issue of this case is to

determine whether PO Pulice failed to clearly provide his name and shield number and/or failed to provide ample time for Ms. [REDACTED] to obtain his information as outlined in Patrol Guide procedure 203-09.

During Ms. [REDACTED] interview, she stated that when PO Pulice refused to state his name and shield numbers she asked PO [REDACTED] to provide the information, but PO [REDACTED] pushed PO Pulice out of the room and both left without providing the information. No allegations of misconduct were pleaded against PO [REDACTED] PO [REDACTED] clearly provided her name and shield number to Ms. [REDACTED] and if she ignored Ms. [REDACTED] request, it did not appear that she violated any Patrol Guide regulations by not providing her partner's name and shield number.

Credibility Assessment

[REDACTED] [REDACTED] was deemed credible. Ms. [REDACTED] is accustomed to logging her daily activities into a journal. She writes names of the persons she contacts as well as the times of those contacts. She also details information pertaining to her contacts. The response by police officers on November 5, 2005, as well as information regarding this investigator's presence on November 18, 2004 was recorded in the journal. Since the journal contain PO [REDACTED] and Sergeant [REDACTED] names and shield numbers, plus the names of this investigator and Investigator Sands, but does not contain any information for PO Pulice, Ms. [REDACTED] statement was evidently credible.

PO David Pulice was not deemed to be credible. There was no evidence to support his statement that he clearly stated his name and shield number to Ms. [REDACTED]

While there is no issue regarding PO [REDACTED] [REDACTED] behavior towards Ms. [REDACTED] she also stated that PO Pulice provided his name and shield number to Ms. [REDACTED] However, the evidence revealed that PO Pulice was not truthful when he stated that he clearly provided his name and shield number to Ms. [REDACTED] Thus, PO [REDACTED] credibility is questionable.

There are no reasons to doubt Sergeant [REDACTED] [REDACTED] credibility. His statement was detailed, appeared credible and supported by Ms. [REDACTED] journal entries.

Allegation A: Abuse of Authority: PO David Pulice refused to provide his name and shield number to [REDACTED] [REDACTED]

Ms. [REDACTED] stated that when she asked PO David Pulice for his name and shield number, he pointed to his nameplate and said, "It's right here." She put on her eyeglasses but still could not read the name off of the officer's nameplate. Ms. [REDACTED] asked PO Pulice to either come closer to her so she could read the information or to state the information. PO Pulice responded, "Well, if you can't see it, that's your problem" and he left the room.

PO Pulice stated that upon Ms. [REDACTED] request for his name and shield number, he pointed to his nameplate, stated his name in a clear tone of voice and stood close enough to Ms. [REDACTED] that she could see his uniform's nameplate.

It is evident that Ms. [REDACTED] did not obtain PO Pulice's name and shield number. His name and shield number was the only information left out of her journal entries and Ms. [REDACTED] noted that the "male officer" refused to provide his name and shield number.

It is evident that Ms. [REDACTED] obtained PO [REDACTED] and Sergeant [REDACTED] names and shield numbers. She also obtained and wrote the names of the CCRB investigators that interviewed her, as well as the names of her personal contacts. As PO Pulice's name was lacking from the entries, it begs the question as to why Ms. [REDACTED] would omit PO Pulice's name and note he did not provide the information, if he had in fact clearly provided it.

There is no dispute that PO Pulice pointed to his badge upon Ms. [REDACTED] request for his identity. However, it is doubtful that he verbally provided the information as he stated. If Ms. [REDACTED] needed any clarification of PO Pulice's name, it is more likely than not, she would have

asked him to spell his name. Ms. [REDACTED] asked Sergeant [REDACTED] spell his name and the fact that she obtained and correctly logged the CCRB investigators names in her journal, is indicative of her accurate log keeping.

Since it is evident that Ms. [REDACTED] dealt with PO [REDACTED] and not directly with PO Pulice, there is no apparent reason for filing a complaint against him. It is fair to conclude then, that since PO Pulice's name and badge number were missing from Ms. [REDACTED] journal entries, which includes the name of all her other contacts, that PO Pulice did not clearly state his name and shield number upon Ms. [REDACTED] request. Patrol Guide procedure 203-09 states: ***Courteously and clearly state your rank, name, shield number and command, or otherwise provide them, to anyone who requests you to do so. Allow the person ample time to note this information*** (enclosure A). If PO Pulice had allowed Ms. [REDACTED] a reasonable amount of time to clearly see his name and shield number on his nameplate, it is doubtful that this complaint would have been made. However, the absence of PO Pulice's name and/or shield number in Ms. [REDACTED] journal, is further evidence that he did not allow her ample time to note his information, and thus, it is recommended that allegation A be substantiated.

Investigator: Janet Gooding

Date: May 3, 2005

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date:

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Emily Sims	Team: Team # 6	CCRB Case #: 200606723	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sat, 05/20/2006 9:20 PM	Location of Incident: In front of 409 Beach 51st Street in Queens, N.Y.	Precinct: 101	S.O.L. Expires: 11/20/2007		
Date/Time CV Reported Wed, 05/24/2006 10:42 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 05/24/2006 10:42 AM		

Complainant/Victim	Type	Home Address
1. [REDACTED]	Victim	[REDACTED]
2. [REDACTED]	Reporting Non-Witness	[REDACTED]

Witness(es)	Home Address
1. [REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM David Pulice	08184	930988	101 PCT
2. SGT [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
A . SGT [REDACTED]	Abuse of Authority: Sgt. [REDACTED] stopped and questioned [REDACTED]	A . Exonerated
B . [REDACTED]	[REDACTED]	[REDACTED]
C . SGT [REDACTED]	Abuse of Authority: Sgt. [REDACTED] frisked [REDACTED]	C . Substantiated
D . POM David Pulice	Abuse of Authority: PO David Pulice searched the car in which [REDACTED] was an occupant.	D . Substantiated
E . SGT [REDACTED]	Abuse of Authority: Sgt. [REDACTED] refused to provide his name and shield number to [REDACTED]	E . Substantiated

Synopsis

On May 20, 2006, [REDACTED] [REDACTED] was driving to his girlfriend, [REDACTED] [REDACTED], home in Queens. As Mr. [REDACTED] waited at a light on Beach 51st Street, he noticed a tan impala across the intersection from him. Mr. [REDACTED] suspected that the vehicle was an unmarked police vehicle and watched as it turned behind him, stopped five car lengths behind him on Beach 51st Street, then parked in front of his vehicle after he backed into a parking spot and exited. The occupants of the police vehicle, identified as PO David Pulice from his tax ID on summonses later issued, and Sgt. [REDACTED] [REDACTED] (identified by the CCRB), approached Mr. [REDACTED] and summoned him back to his vehicle. Sgt. [REDACTED] requested Mr. [REDACTED] identification and vehicle information, which he provided (Allegations A and B), then Sgt. [REDACTED] frisked Mr. [REDACTED] with Mr. [REDACTED] hands atop the roof of his vehicle (Allegation C). Sgt. [REDACTED] directed Mr. [REDACTED] to the rear of the vehicle and handed Mr. [REDACTED] his identification. During this time, PO Pulice searched inside Mr. [REDACTED] vehicle, looking around the front driver and passenger sides (Allegation D). Ms. [REDACTED] was now outside and stood near Mr. [REDACTED] vehicle for the remainder of the incident. Mr. [REDACTED] informed the officers that he did not give PO Pulice permission to search his vehicle and he requested that the officers write down their names and shield numbers at the conclusion of the incident. Sgt. [REDACTED] replied that their names would be on the summonses the officers would be issuing Mr. [REDACTED] and requested his identification and vehicle information once again. PO Pulice and Sgt. [REDACTED] returned to the police vehicle and some time later, Sgt. [REDACTED] returned and handed Mr. [REDACTED] two summonses, issued by PO Pulice, for making a left turn without signaling and for driving with an expired license. Sgt. [REDACTED] never provided his name or shield number to Mr. [REDACTED] (Allegation E).

Because it is likely that Sgt. [REDACTED] and PO Pulice observed Mr. [REDACTED] make a left turn without signaling and subsequently stopped him for the traffic violation, it is recommended that Allegations A and B be exonerated. However, there was no reason to suspect that Mr. [REDACTED] had committed, or intended to commit a crime, or that he was in possession of a weapon so it is recommended that Allegations C and D be substantiated. Credible testimony supports the claim that Mr. [REDACTED] requested Sgt. [REDACTED] and PO Pulice's names and shield numbers multiple times, and that Sgt. [REDACTED] acknowledged the request but failed to provide the information. Therefore, it is recommended that Allegation E be substantiated.

Summary of Complaint

[REDACTED] [REDACTED] Sr. filed this complaint with the CCRB over the phone on May 24, 2006 (Enc. 4a-b). Mr. [REDACTED] Sr. was not a witness to the events, but relayed the incident on behalf of his son, [REDACTED] [REDACTED] Jr. The CCRB spoke with Mr. [REDACTED] Jr. over the phone on June 5, 2006 (Enc. 5) and interviewed him in person on June 16, 2006 (Enc.6a-d). Both statements were nearly identical. Mr. [REDACTED] drives a 1993 burgundy Caprice with tinted windows and very bright, blue headlights. On May 20, 2006, at approximately 9:20 p.m., Mr. [REDACTED] was driving from his apartment, 54-15 Beach Channel Drive, to his girlfriend's home at 409 Beach 51st Street, both in Queens. As Mr. [REDACTED] waited at a red light to turn north (left) onto Beach 51st Street, he noticed an unmarked, tan Impala opposite him (facing west) in the far right lane. There was one vehicle in front of Mr. [REDACTED] and one to either side of him as the light turned green and he turned left. The tan Impala, which Mr. [REDACTED] suspected to be a police vehicle, followed him. Mr. [REDACTED] paused halfway between the corner and Ms. [REDACTED] building and the tan Impala stopped approximately five car lengths behind him. Mr. [REDACTED] drove on and parked his car directly in front of Ms. [REDACTED] building where cars are required to park at a ninety-degree angle to the traffic lanes. Mr. [REDACTED] backed into a spot and as he exited his vehicle and shut the door, the tan Impala pulled up and stopped in the street perpendicular to the front of his car.

Mr. [REDACTED] began walking toward the sidewalk with his keys in his hand. Two males in plain clothes exited the Impala and summoned Mr. [REDACTED] back to his vehicle. They asked for his license and car information. Mr. [REDACTED] complied with this request and an officer, identified by the CCRB as Sgt. [REDACTED] [REDACTED] told him that he needed to search Mr. [REDACTED] to "make sure he didn't have anything on him that he wasn't supposed to have." Mr. [REDACTED] faced his car and placed his hands atop the roof, leaving his keys on the hood. As Sgt. [REDACTED] frisked Mr. [REDACTED] PO David Pulice (as identified from the bottom of the summonses later issued) took his keys off of the hood. Sgt. [REDACTED] patted Mr. [REDACTED] down but definitely did not enter any of his pant's pockets although he could have placed his hands inside Mr. [REDACTED] jacket pockets because they are large and stick out, but Mr. [REDACTED] was not certain. Sgt. [REDACTED] found nothing on Mr. [REDACTED] person. Sgt. [REDACTED] gave Mr. [REDACTED] his license and vehicle information and then told Mr. [REDACTED] to

step onto the sidewalk near the rear of his vehicle. Mr. [REDACTED] stepped onto the sidewalk with his back to his vehicle and Sgt. [REDACTED] faced him.

Five seconds later, Mr. [REDACTED] turned around and saw PO Pulice inside the front driver's side of his vehicle but did not see exactly what he was doing. Mr. [REDACTED] asked Sgt. [REDACTED] "did I give him permission to search my car?" Sgt. [REDACTED] responded, "I don't know, did you?" There were only approximately five feet between all three men, so if one person said something, the others would have heard. Mr. [REDACTED] confirmed the fact that he did not give PO Pulice permission to search his car. Three or four seconds after that, Mr. [REDACTED] requested that before Sgt. [REDACTED] leave the scene, he write down he and PO Pulice's names and shield numbers. Sgt. [REDACTED] responded, "I'll make sure I write it on the summons I am going to give you" for not signaling while making a left turn. Mr. [REDACTED] told Sgt. [REDACTED] that he did not care what kind of summons he was receiving, all he cared about was getting the officers' names and shield numbers because he was upset that they searched his vehicle without permission. Mr. [REDACTED] told the CCRB investigator that if the officers had asked to search his vehicle, he would have let them because he did not have anything to hide inside. Mr. [REDACTED] told the officers, "Make sure your information is on whatever ticket you feel like writing me." Ms. [REDACTED] had seen Mr. [REDACTED] pull up to her building because of his very bright head lights, and by this time, she was wondering what was taking him so long to get inside, so she walked out and stopped near Mr. [REDACTED] vehicle. Sgt. [REDACTED] told her to step away, so she complied and stepped back onto the sidewalk. Ms. [REDACTED] stood on the sidewalk for the remainder of the incident.

Mr. [REDACTED] observed PO Pulice move from the driver's side to the passenger's side of Mr. [REDACTED] vehicle, and when PO Pulice was finished, the officers asked for Mr. [REDACTED] identification again. Mr. [REDACTED] gave it to them and Sgt. [REDACTED] told him to sit in his car while they wrote the summons. As Sgt. [REDACTED] and PO Pulice returned to the police vehicle to write the summonses, Mr. [REDACTED] requested once or twice more that they write down their names and shield numbers for him. Mr. [REDACTED] stood next to the rear of his vehicle instead of sitting inside and waited for the officers to finish. Two uniformed officers pulled up in a marked police vehicle and parked beside the tan Impala. All four officers spoke for a few minutes, and appeared to be looking through a book of codes in order to write Mr. [REDACTED] summonses. When Sgt. [REDACTED] brought Mr. [REDACTED] the two summonses and his license, Mr. [REDACTED] asked once again for he and his partner's name and shield number. Sgt. [REDACTED] said, "Well, we will both be there in court when you go to court." Mr. [REDACTED] was issued a summons for failing to signal while making a left turn, and one for driving on an expired license.

Results of Investigation

Witness

[REDACTED] was interviewed at the CCRB on June 16, 2006 (Enc.7a-d). Ms. [REDACTED] is [REDACTED] girlfriend, she resides at 409 Beach 51st Street, apartment 2G in Queens. On May 20, 2006, at approximately 9:20 p.m., Ms. [REDACTED] saw the headlights of Mr. [REDACTED] vehicle arriving outside her building through her kitchen window. Mr. [REDACTED] has bright, blue headlights on his burgundy Caprice, so the entire street illuminates when he is driving down it. After noticing that he had pulled up to her apartment, Ms. [REDACTED] placed some food into the microwave for them to eat.

After approximately four or five minutes, Mr. [REDACTED] was still not at her apartment, so she looked out of her kitchen window once again. Ms. [REDACTED] noticed that Mr. [REDACTED] was speaking with one plain-clothed male, identified by the CCRB as Sgt. [REDACTED] There was another plain clothed male, identified by the CCRB as PO David Pulice, inside Mr. [REDACTED] vehicle with both the front driver's side and front passenger's side doors open. Ms. [REDACTED] knew right away that these were police officers, so she ran to her room, put on sneakers, then headed outside.

When Ms. [REDACTED] got outside, she saw a tan Impala parked in the street perpendicular to Mr. [REDACTED] vehicle. There was a marked police vehicle parked directly next to the Impala further toward the middle of the road. Mr. [REDACTED] was now speaking to both Sgt. [REDACTED] and PO Pulice. Sgt. [REDACTED] asked Mr. [REDACTED] for his license. As Ms. [REDACTED] approached, Sgt. [REDACTED] asked her to move away, so she stepped onto the sidewalk. Mr. [REDACTED] immediately handed Sgt. [REDACTED] his license (and most likely his vehicle's registration and insurance from inside his wallet) and asked both officers to write down their names and shield numbers as they walked away to the tan Impala. The marked police vehicle left the scene soon after Sgt. [REDACTED] and PO Pulice sat in their vehicle. Ms. [REDACTED] tried to speak to Mr. [REDACTED] as he was waiting for the officers to come back out, but he was concentrating on them and did not hear her. Sgt. [REDACTED] exited the police vehicle two or three minutes later and handed Mr. [REDACTED] two summonses and his license. Mr.

█████ asked again for their names and shield numbers and Sgt. █████ responded, "We will see you again in court." Sgt. █████ and PO Pulice drove a few feet down the street then Sgt. █████ exited the vehicle and brought Mr. █████ his car keys, which they had mistakenly kept.

Officer Statements

On May 20, 2006, PO Pulice issued two summonses (Enc.9a-b) to Mr. █████ one for making a left turn without signaling, and another for driving with an expired license. On the back of one of the summonses, PO Pulice noted "Traveling E/B on BCD. No left turn signal onto B51st. Driver made lunges to put stuff underneath seats." PO Pulice also filled out the stop and frisk report regarding this incident (Enc.10a-b). On the report, PO Pulice indicated that Mr. █████ was stopped for criminal possession of weapon, that Mr. █████ made furtive movements, refused to comply with officers' directions, and was frisked. PO Pulice also noted on the report that the area has high incidence of reported offense of type under investigation, and that Mr. █████ provided evasive, false, or inconsistent responses to officers' questions.

Sgt. █████ █████ was interviewed at the CCRB on August 2, 2006 (Enc.13a-b). PO David Pulice was interviewed at the CCRB on July 26, 2006 (Enc.12a-b). On May 20, 2006, Sgt. █████ and PO Pulice were assigned to anti crime. Both officers were in plain clothes and riding in an unmarked police vehicle. Sgt. █████ membook was unavailable at the time of his interview. According to PO Pulice's memobook, █████ █████ was stopped for CPW in front of 409 Beach 51st Street and two summonses were issued to him, one for not signaling when turning and one for driving on an expired license. Sgt. █████ and PO Pulice's statements were consistent except where noted below.

According to Sgt. █████ he and PO Pulice were travelling westbound on Beach Channel Drive when they observed a vehicle, whose driver was later identified as █████ █████ driving eastbound on Beach Channel Drive making a left turn onto Beach 51st Street (northbound). Both the police vehicle and Mr. █████ vehicle were the first cars in line at the intersection. PO Pulice told the CCRB that Sgt. █████ was driving and the police vehicle was directly behind Mr. █████ as he turned left onto Beach 51st Street through a green light. Sgt. █████ followed Mr. █████ without having to stop because there were no other vehicles in the area. Both officers observed the complete left turn with no signal. Sgt. █████ testified that Mr. █████ turned near the Edgemere Houses, which is "a high crime area with many incidents of gun violence." The officers followed Mr. █████ in order to conduct a vehicle stop for the traffic violation. Mr. █████ backed his vehicle into a parking spot twenty or thirty feet from the intersection. The front of Mr. █████ car was facing the street. Sgt. █████ recalled that he and PO Pulice activated their emergency lights as they stopped perpendicular to Mr. █████ vehicle and that as soon as the emergency lights came on, Mr. █████ looked at the officers with a "distinct sign of alarm and nervousness." PO Pulice recalled that the officers slowed down in front of Mr. █████ vehicle and Mr. █████ looked directly inside the police vehicle at PO Pulice and Sgt. █████ straight into the officers' eyes. Sgt. █████ drivers' side was closest to Mr. █████ vehicle. PO Pulice stated that Mr. █████ "seemed nervous and (a couple seconds passed, then) he started lunging, leaning forward, and lunging under the seats." The officers could not see his face, the top of his head was showing over the steering wheel, and his shoulders could be seen moving from left to right, but no other portion of his body was above the dashboard. Sgt. █████ observations regarding the "furtive movements" corresponded with PO Pulice's. Sgt. █████ added that he "wasn't sure if he was putting something under the seat or pulling something out... so at that point I was fearful that he may have been ditching or retrieving a weapon." These movements lasted a couple seconds.

The officers immediately approached Mr. █████ who was still seated in his vehicle. The officers requested that Mr. █████ exit his vehicle and he complied immediately. Mr. █████ said nothing and left his door ajar. A street light was on and illuminating the area so both officers had flashlights in their hands but not turned on. Sgt. █████ noted that Mr. █████ seemed to be angry about being stopped. While PO Pulice recalled explaining that they stopped Mr. █████ because of the traffic violation and that his lunging actions and his nervousness were the reason they asked him to get out of the vehicle, Sgt. █████ recalled this conversation taking place later in the incident. PO Pulice stated that the officers informed Mr. █████ that, for their safety and his safety, they needed to frisk him for weapons, however Sgt. █████ stated that as soon as Mr. █████ exited his vehicle, he frisked him to see if he had any weapons. PO Pulice stood nearby in a support position. No weapons were found on Mr. █████ person. The officers requested that Mr. █████ step to the back of the vehicle while PO Pulice looked into the lungable areas of the vehicle where he saw Mr. █████ reaching prior to the stop (driver's side floor and passenger side floor). PO Pulice conducted the

limited search with his flashlight. Half of his body was leaning inside the vehicle. He never had to open the front driver's door, nor did he sit in the seat. PO Pulice opened the passenger side door and leaned in the same way. According to Sgt. [REDACTED] once PO Pulice had finished his investigation, the officers explained to Mr. [REDACTED] why they stopped him.

Details regarding the remainder of the incident are according to PO Pulice's statement, as Sgt. [REDACTED] only recalled the general episode. PO Pulice asked for Mr. [REDACTED] license, registration, and insurance. PO Pulice and Sgt. [REDACTED] asked Mr. [REDACTED] where he lived and who he was visiting in the building because his identification did not correspond with the building's address. Mr. [REDACTED] license was expired. Sgt. [REDACTED] and PO Pulice sat in the police vehicle and wrote two summonses and returned them to Mr. [REDACTED] explaining to him the court proceedings regarding the summons. A marked RMP drove by and the officers waved them along. PO Pulice confirmed that the traffic violation was the initial observation and reason for stopping Mr. [REDACTED] but Mr. [REDACTED] was frisked and the vehicle searched for possible criminal possession of a weapon because of his suspicious movements inside his vehicle. Both PO Pulice and Sgt. [REDACTED] stated that Mr. [REDACTED] never asked either of them to provide their name or shield numbers.

When asked why PO Pulice indicated on the UF-250 that Mr. [REDACTED] refused to comply with officers' directions leading to reasonable fear for safety, PO Pulice stated, "that was just, him lunging around, after we asked him to get out of the car he was a little timid at first then he stepped out, he didn't really say anything, just like waited a second or two then exited the car." That was the only portion of the incident in which Mr. [REDACTED] refused to comply with orders. When asked why PO Pulice noted that Mr. [REDACTED] provided false or inconsistent answers to officers' questions, PO Pulice stated "When we asked him who he was seeing, first he said 'my girlfriend', then he said 'my cousin', then he said 'somebody's coming down'."

Although Sgt. [REDACTED] could not recall the exact sequence of events, he told the CCRB that "according to procedure, you would always frisk before (asking for someone's identification)" in order to address the safety concern first. Sgt. [REDACTED] also stated that there is no police procedure requiring officers to question an individual after ensuring that he has no weapons on his person and prior to searching the person's vehicle. Sgt. [REDACTED] did not recall Mr. [REDACTED] specifically refusing to comply with any officers' directives as indicated on the UF-250, however, Sgt. [REDACTED] assumed that PO Pulice was referring to an instance when PO Pulice requested that Mr. [REDACTED] move to a specific spot and Mr. [REDACTED] refused. Sgt. [REDACTED] did not recall Mr. [REDACTED] providing an evasive, false, or inconsistent response to officers' questions. Sgt. [REDACTED] stated that he signs off on many reports and his signature does not necessarily endorse that the contents of the report are correct.

Officer CCRB History

Of the numerous complaints filed against Sgt. Fabarra, he has received charges for five substantiated allegations. The related cases are 200512992 for which the allegations were a stop and question, and a frisk; and 200508693 for which the allegations were entering and searching a location, refusing to provide his name and shield, authorizing the detention of an individual, and authorizing a frisk. Sgt. [REDACTED] is currently being monitored by Internal Affairs due to a high number of CCRB complaints. PO Pulice received command discipline for a substantiated allegation in CCRB case 200411089 (Enc.1a-d and 2).

Complainant CCRB History

Mr. [REDACTED] has no open or prior CCRB complaints (Enc.3).

Criminal Conviction History

According to a search of the BADS database, Mr. [REDACTED] has no history of criminal conviction.

Disposition of Summonses

According to the Traffic Summons Bureau on September 6, 2006, both summonses issued to Mr. [REDACTED] have been rescheduled due to an administrative change.

Conclusions and Recommendations

Officer Identification

PO David Pulice was identified via his name and tax ID written on the two summonses issued to Mr. [REDACTED] at the conclusion of the incident. Additionally, the officers' memobooks (Enc.11a-b), roll call (Enc.8a-b), and each officer's testimony verified their presence at the incident.

Issues in Dispute

Whether Sgt. [REDACTED] and PO Pulice were behind Mr. [REDACTED] or across the intersection from him when they observed the traffic violation is in question. In dispute is whether Mr. [REDACTED] was seated in his vehicle when the officers drove up and whether they asked him to exit his vehicle or if he had already exited and they summoned him back. Also disputed is when the officers requested Mr. [REDACTED] identification and if they ever explained to him that they observed him making furtive movements inside his vehicle. PO Pulice and Mr. [REDACTED] dispute how many doors PO Pulice opened in order to look into the vehicle and whether Mr. [REDACTED] faced the vehicle or not when he was frisked. It is disputed that Mr. [REDACTED] asked the officers to provide him with their names and shield numbers. Also in dispute is whether the officers interacted with any civilian other than Mr. [REDACTED] namely Ms. [REDACTED]

Undisputed Issues

Undisputed is that Sgt. [REDACTED] frisked Mr. [REDACTED] and that PO Pulice looked inside the front driver and passenger's side of his vehicle. It is undisputed that the three men moved to the rear of Mr. Gale's vehicle and at some point, the officers obtained Mr. [REDACTED] ID and issued him two summonses for traffic violations.

Assessment of Evidence

Both officers stated that they intended to stop Mr. [REDACTED] for the traffic violation from the moment they observed his illegal turn. Sgt. [REDACTED] and PO Pulice admitted that there was little to no traffic in the vicinity, and Sgt. [REDACTED] stated that the location of the stop has a high rate of gun violence. Although, PO Pulice's testimony that Mr. [REDACTED] was initially stopped for the traffic violation, and was asked to exit his vehicle after making motions indicative of criminal possession of a weapon differs from his memobook entry as well as the UF-250 where he recorded that the reason for the initial stop was criminal possession of a weapon, Mr. [REDACTED] did receive a summons for the traffic violation at the conclusion of the incident, of which he did not dispute the validity. According to Mr. [REDACTED] version, it seemed that Sgt. [REDACTED] did not intend to issue Mr. [REDACTED] a summons until after Mr. [REDACTED] questioned why they were searching his vehicle and requested their information. Sgt. [REDACTED] had already handed Mr. [REDACTED] identification and vehicle information back after the frisk. But the fact remains that there is no real dispute over the summons for making a left turn without signaling. Therefore, it is probable that the officers did observe Mr. [REDACTED] commit a traffic infraction.

While Mr. [REDACTED] is credited with the fact that he was outside of his vehicle when stopped by the officers, it is still possible that the officers observed Mr. [REDACTED] while he was still inside. The officers insinuated that Mr. [REDACTED] was surprised at their presence in front of his vehicle, but Mr. [REDACTED] acknowledged that he observed them at approximately the same time they observed him. He noticed that they turned and slowed down behind him, therefore lending credence to the belief that he would not have been alarmed and nervous when they stopped in front of him. Sgt. [REDACTED] and PO Pulice's description of Mr. [REDACTED] movements seems contrived. Additionally, PO Pulice's remarks on the UF-250 did not correspond with his or Sgt. [REDACTED] statements and PO Pulice's explanation for these UF-250 remarks were not believable (that Mr. [REDACTED] evaded questioning and did not comply with officers' requests). These discrepancies suggest that the officers' testimonies regarding the UF-250 and Mr. [REDACTED] disobedience were exaggerated to justify their actions after the fact.

Mr. [REDACTED] displayed some level of understanding regarding the police officers' duties when he stated that he would not have minded them looking in his vehicle if only they would have asked permission as he had "nothing to hide." Also, that Mr. [REDACTED] was more angered by the fact that he was not asked permission, than by search itself means that the officers most likely never informed him why they stopped him. Ms. [REDACTED] version was also reliable given that she made no attempts to exaggerate the officers' actions. For example, she never alleged that Sgt. [REDACTED] was discourteous when he asked her to move

away. Ms. [REDACTED] corroborated Mr. [REDACTED] assertion that he requested multiple times for the officers to provide their names and shield numbers while both officers denied this allegation.

Determination of Fact

The above assessment of evidence credits Mr. [REDACTED] version that Sgt. [REDACTED] and PO Pulice did observe Mr. [REDACTED] make a left turn from the opposite side of the intersection (especially since Sgt. [REDACTED] corroborated this fact). Mr. [REDACTED] is also credited with the fact that he observed the police officers slow down behind him, he parked his vehicle and exited, and was next approached by Sgt. [REDACTED] and PO Pulice once he was already outside of the car. This means that both front doors of Mr. [REDACTED] vehicle were closed at the time PO Pulice began his vehicle search. It is likely that the officers observed a traffic violation at the intersection. Mr. [REDACTED] was issued a summons for driving with an expired license. Mr. [REDACTED] driver's license was issued to him on February 16, 2006 and expires on February 22, 2014.

The likelihood of Sgt. [REDACTED] and PO Pulice explaining the reason for the stop (CPW) to Mr. [REDACTED] is slim given Mr. [REDACTED] account of the remainder of the incident. Mr. [REDACTED] version was that Sgt. [REDACTED] requested Mr. [REDACTED] identification, handed it back, and then frisked Mr. [REDACTED]. The officers' version is quite similar, so what can be determined is that as soon as Mr. [REDACTED] was within reach of Sgt. [REDACTED] he was frisked. Mr. [REDACTED] and Ms. [REDACTED] version of the sequence of events is completely plausible in that, after the frisk, PO Pulice conducted a search of Mr. [REDACTED] vehicle. When no weapons were found, the officers again requested Mr. [REDACTED] identification and returned to the police vehicle to write the summonses. Before returning, Mr. [REDACTED] requested – more than once – that the officers write down their names and shield numbers for him. PO Pulice's name was on the summonses; however, Sgt. [REDACTED] never provided the information for Mr. [REDACTED].

Allegations

Allegation A – Abuse of Authority: Sgt. [REDACTED] [REDACTED] stopped and questioned [REDACTED] [REDACTED]

Allegation B – Abuse of Authority: PO David Pulice stopped and questioned [REDACTED] [REDACTED]

Sgt. [REDACTED] and PO Pulice sufficiently explained that their initial reason for stopping Mr. [REDACTED] was because they saw that he made a left turn without signaling. This traffic violation has been further confirmed in that Mr. [REDACTED] did not deny it happening and was not angered over the summons itself. When an officer has reasonable suspicion that an offense has occurred, it is expected that the officer stop the individual and conduct a stop based on the alleged violation. According to this information, Sgt. [REDACTED] and PO Pulice were justified in stopping Mr. [REDACTED] and requesting information. Therefore, it is recommended that Allegations A and B be exonerated.

Allegation C – Abuse of Authority: Sgt. [REDACTED] [REDACTED] frisked [REDACTED] [REDACTED]

Though Sgt. [REDACTED] and PO Pulice were justified in stopping and questioning Mr. [REDACTED] based on the above analysis, Sgt. [REDACTED] frisked Mr. [REDACTED] almost immediately upon approaching him. It is necessary then to assess whether Sgt. [REDACTED] had reasonable suspicion that Mr. [REDACTED] had committed or intended to commit a crime, or that Mr. [REDACTED] was armed. Both officers described Mr. [REDACTED] making furtive motions and acting nervously upon observing the officers in a high crime area – notably gun violence. In order for the frisk to be permissible, these three factors need to equate to reasonable suspicion that Mr. [REDACTED] possessed a weapon. However, the fact that there was no specificity of a crime suggests that there existed no reasonable suspicion. There was no radio run, no shots fired, no bulge on Mr. [REDACTED] person or other suggestions of criminality. The action of bending down beneath the dashboard can be entirely innocuous. Thus, with no additional evidence the officers did not have reasonable suspicion of criminal activity and made no attempt to raise their suspicion by conducting a common-law inquiry. Additionally, the officers produced implausible versions of Mr. [REDACTED] compliance with their requests. This embellishment of the stop and frisk report and the officers' own statements in order to justify the intrusiveness of the stop proves that they acted without care that their action be proper. Therefore, Sgt. [REDACTED] was acting outside of his authority and in bad faith and it is recommended that Allegation C be substantiated.

Allegation D – Abuse of Authority: PO David Pulice searched the car in which [REDACTED] [REDACTED] was an occupant.

Regarding PO Pulice's search of Mr. [REDACTED] vehicle, *People v Torres* held that, "once the suspect is outside the car, there was no reason to fear that the weapon could be grabbed, nor did the police have the

right to enter the car on the theoretical possibility that once the suspect is released he could re-enter the car and gain control of the weapon.” Furthermore, officers need probable cause in order to search a vehicle and given that Sgt. [REDACTED] had no reasonable suspicion to frisk Mr. [REDACTED] the further intrusion into his vehicle is obviously erroneous. This failure to establish probable cause to search Mr. [REDACTED] vehicle combined with the above assessment of the officers’ bad faith is evidence that PO Pulice abused his authority. It is therefore recommended that Allegation D be substantiated.

Allegation E – Abuse of Authority: Sgt. [REDACTED] [REDACTED] refused to provide his name and shield number to [REDACTED] [REDACTED]

Both Mr. [REDACTED] and Ms. [REDACTED] have been credited in their versions of the incident. Ms. [REDACTED] corroborated the fact that Mr. [REDACTED] requested the officers’ names and shield numbers more than once, at exactly the same point in the incident when Mr. [REDACTED] alleged his request. PO Pulice’s tax ID number – although faded on the copy of the summonses received by the CCRB – was legible at the time of the incident. This is proven by the fact that Mr. [REDACTED] Sr. was able to provide PO Pulice’s tax ID for the CCRB upon filing the complaint for his son. If Sgt. [REDACTED] had complied with Mr. [REDACTED] request for information, it is believed that Mr. [REDACTED] would have made note of his name and/or shield number. However, this is not the case, and, given the number of times Mr. [REDACTED] made the request, and Sgt. [REDACTED] response to Mr. [REDACTED] regarding the request, it is likely that Sgt. [REDACTED] heard him. Sgt. [REDACTED] and PO Pulice denied the fact that Mr. [REDACTED] ever requested the information but the statement provided by Mr. [REDACTED] was detailed in a way that one would not suspect it of being made up. It is most likely that Sgt. [REDACTED] heard Mr. [REDACTED] request, responded to it, and failed to comply. Therefore, Sgt. [REDACTED] did not adhere to Patrol Guide Procedure 203.09 which states that officers must “courteously and clearly state (their) rank, name, shield number and command, or otherwise provide them, to anyone who requests (they) do so.” Therefore, it is recommended that Allegation E be substantiated.

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date:

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Christina Vuong	Team: Team # 3	CCRB Case #: 201205372	<input checked="" type="checkbox"/> Force <input type="checkbox"/> Discourt. <input type="checkbox"/> U.S. <input checked="" type="checkbox"/> Abuse <input type="checkbox"/> O.L. <input checked="" type="checkbox"/> Injury
Incident Date(s) Thu, 04/26/2012 11:35 PM	Location of Incident: 110th Road and Guy R. Brewer Boulevard	Precinct: 113	S.O.L. Expires: 10/26/2013
Date/Time CV Reported Fri, 04/27/2012 1:04 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 04/27/2012 1:04 PM

Complainant/Victim	Type	Home Address
1. Philippe Laguerre	Comp/Victim	119 New York Avenue PH Freeport NY 11520

Subject Officer(s)	Shield	TaxID	Command
1. POM David Pulice	08184	930988	PBQS AC
2. POM Joseph Garofalo	05775	934906	PBQS AC
3. POM Michael Cullinan	23956	934708	PBQS AC

Officer(s)	Allegation	Investigator Recommendation
A . POM Joseph Garofalo	Abuse of Authority: PO Joseph Garofalo frisked Philippe Laguerre.	A . Unsubstantiated
B . POM David Pulice	Force: PO David Pulice used physical force against Philippe Laguerre.	B . Unsubstantiated
C . POM Michael Cullinan	Force: PO Michael Cullinan used physical force against Philippe Laguerre.	C . Unsubstantiated
D . POM David Pulice	Abuse of Authority: PO David Pulice searched the car in which Philippe Laguerre was an occupant.	D . Substantiated

Case Summary

On [REDACTED] 27, 2012, Philippe Laguerre filed the following complaint via phone with the Civilian Complaint Review Board (CCRB) (encl. D1-2).

On [REDACTED] 26, 2012 at 11:35 p.m., PO David Pulice, PO Joseph Garofalo, and PO Michael Cullinan of the Patrol Borough Queens South Anti-Crime Unit pulled over Mr. Laguerre's vehicle at 110th Road and Guy R. Brewer Boulevard in Queens. The following allegations resulted:

- **Allegation A– Abuse of Authority: PO Joseph Garofalo frisked Philippe Laguerre.**

The investigation was unable to determine if PO Garofalo frisked Mr. Laguerre prior to his arrest. Therefore, it is recommended that Allegation A be closed as *unsubstantiated*.

- **Allegation B- Force: PO David Pulice used physical force against Philippe Laguerre.**

- **Allegation C- Force: PO Michael Cullinan used physical force against Philippe Laguerre.**

The investigation was unable to determine if PO Pulice was justified in using force against Mr. Laguerre or if PO Cullinan used force against Mr. Laguerre. Therefore, it is recommended that Allegations B and C be closed as *unsubstantiated*.

- **Allegation D- Abuse of Authority: PO David Pulice searched the vehicle in which Philippe Laguerre was an occupant.**

The investigation determined that PO Pulice was not justified in searching Mr. Laguerre's vehicle. Therefore, it is recommended that Allegation D be closed as *substantiated*.

Results of Investigation

Civilian Statement

Complainant/ Victim: PHILIPPE LAGUERRE

- *Mr. Laguerre was 24 years old at the time of the incident. He is a 5'10" tall, 170-lb black man with black hair and brown eyes.*

Photos

Mr. Laguerre's arrest photo revealed no apparent abrasion, contusion, or swelling (encl. D12). His bottom right lip is darker in color but there is no apparent cut on it. Mr. Laguerre provided a photo of his mouth, taken the day after the incident, which showed an abrasion to his bottom right lip (encl. D11).

Statements to Medical Personnel

On [REDACTED] 28, 2012, Mr. Laguerre reported to Dr. Jimmy Katechis, his private doctor, that he was struck with a fist in his jaw and the temporal area of his head (encl.F1-7).

CCRB Statement

On May 24, 2012, Mr. Laguerre provided an in-person statement at the CCRB (encl. D4-9). During his CCRB interview, Mr. Laguerre also provided a written statement that he prepared prior to the interview date (encl. D10). On June 1, 2012 and June 19, 2012, Mr. Laguerre provided additional information over the phone (encl. D10a-b). His statements were consistent and are summarized below.

On [REDACTED] 26, 2012 at approximately 11:35 p.m., Mr. Laguerre made a U-turn by 111th Avenue and Guy R. Brewer Boulevard in Queens. On 110th Road, an unmarked black sedan flashed its turret lights and pulled him over. Mr. Laguerre did not know if where he pulled over was a legal parking zone.

Mr. Laguerre was driving a grey Volkswagen Rabbit. Loose articles such as gloves, textbooks, and a bottle of car oil were in the front and back seat, as well as in his trunk. All articles would be visible through the windows as Mr. Laguerre's car has a hatchback trunk.

Three plainclothes officers, identified by the investigation as PO David Pulice, PO Joseph Garofalo, and PO Michael Cullinan of the Patrol Borough Queens South Anti-Crime Unit, exited their vehicle. PO Pulice and PO Garofalo approached the driver's side, and PO Cullinan the passenger's side.

PO Pulice was described as a 5'11" to 6'0" tall, 140 to 150-lb man of unknown race with dark hair, tanned skin, and in his late 20s. PO Garofalo, who Mr. Laguerre stated was the driver, was described

as a 5'7" tall, 160-lb white man in his 40s with brown hair, "rough skin," and a spiderweb tattoo on his left arm. [The investigation determined that PO Garofalo was the front passenger of the unmarked car.] PO Cullinan was described as a 5'11" to 6'0" tall, fair-skinned slim white man with brown hair and in his early 30s.

Mr. Laguerre rolled down the driver's side window. PO Garofalo asked for his license and registration. [The investigation determined that PO Pulice asked for this information.] Mr. Laguerre responded, "Sure. Can I ask what I'm being stopped for?" PO Pulice informed him that this was a traffic stop and referenced the U-turn. Mr. Laguerre said, "Okay, give me one second." Mr. Laguerre stated to the officers that his registration was in his glove compartment. He opened his glove compartment and started to rifle through it, PO Pulice instructed Mr. Laguerre to exit the vehicle. Mr. Laguerre asked why, but received no response. He continued to look through the glove compartment. PO Pulice and PO Garofalo told Mr. Laguerre to step outside his vehicle for the second time. Mr. Laguerre again asked why but received no response. PO Garofalo reached through Mr. Laguerre's window to unlock his door and open it. [The investigation determined that it was PO Pulice that did this.] PO Pulice told Mr. Laguerre to exit slowly because Mr. Laguerre "could have a weapon" or "could be armed." No subsequent reference to weapons or being armed was made for the rest of the interaction. Mr. Laguerre stated that he was being discriminated against and he stepped out. Mr. Laguerre did not successfully retrieve the registration. Two to four minutes had elapsed to this point.

After stepping out, Mr. Laguerre provided his license, which he removed from his wallet, to PO Garofalo. [The investigation determined that Mr. Laguerre actually handed it to PO Pulice]. He did not know what PO Pulice did with his license. Within 10 seconds, PO Garofalo instructed Mr. Laguerre to put his hands on his car while PO Garofalo frisked him on his waist, pockets, hips, and thighs. Mr. Laguerre did not make any verbal statements or body movements while being frisked. Nothing was recovered from the frisk. PO Garofalo did not say anything to Mr. Laguerre during the frisk. PO Pulice and PO Cullinan were standing an arm's length away from PO Garofalo and Mr. Laguerre at this point.

Following the frisk, PO Garofalo instructed Mr. Laguerre to go to the back of his car so that the officers could look inside his car. Mr. Laguerre said that the officers had no probable cause to search his car. Without saying anything, PO Pulice used his right fist to punch Mr. Laguerre on his left cheek. At the same time, PO Cullinan punched Mr. Laguerre on the right side of his head above his ear. Mr. Laguerre was dizzy and did not physically or verbally respond.

PO Garofalo and PO Pulice grabbed Mr. Laguerre's arms and attempted to pull his arms behind his back. Mr. Laguerre was "resisting a little" by moving his arms forward. PO Garofalo and PO Pulice pushed him onto the ground. Mr. Laguerre tried to stand up by pushing his legs against the ground. Mr. Laguerre screamed that this was racist. The officers did not make any verbal statements during the struggle. Within 30 seconds of being brought to the ground, Mr. Laguerre was handcuffed.

PO Garofalo and PO Cullinan lifted Mr. Laguerre up and held him against the hood of his car as PO Pulice searched his vehicle. From his vantage point, Mr. Laguerre saw PO Pulice go through his glove compartment, check the front passenger seat, and the trunk. Mr. Laguerre did not see how PO Pulice gained access to the trunk. Nothing was removed from his car. The search lasted 10 minutes.

PO Pulice drove Mr. Laguerre's car [the investigation determined that PO Cullinan did this] Precinct stationhouse, and Mr. Laguerre's uncle picked it up at an unknown time.

Mr. Laguerre sustained a contusion on the left side of his jaw and his right bottom lip bled as a result of the punch. He had swelling on the right side of his head, but it was covered by his hair. He did not receive medical treatment while in police custody.

NYPD Statements:

Subject Officer: PO DAVID PULICE

- *PO Pulice is a 33-year-old, 5'11" tall, 190-lb white man with black hair and brown eyes.*

- On [REDACTED] 26, 2012, PO Pulice was partnered with PO James Garofalo and PO Michael Cullinan and assigned to an anti-crime unit. PO Pulice worked from 5:30 p.m. on [REDACTED] 26, 2012 to 9 a.m. on [REDACTED] 27, 2012. PO Pulice was dressed in plainclothes and assigned to black Chevy Impala #8581.

Memo Book

At 11:55 p.m., PO Pulice stopped Mr. Laguerre's car at the corner of Guy R. Brewer Boulevard and 110th Road for a failure to signal and an illegal U-turn (encl. E1-3). At 12:05 a.m., PO Pulice arrested Mr. Laguerre for disorderly conduct, resisting arrest, failure to produce an insurance card, failure to signal, and an illegal U-turn. At 12:20 a.m., PO Pulice was at the 113th Precinct stationhouse to process Mr. Laguerre's arrest. At 2:00 a.m., PO Pulice went to Long Island Jewish Hospital for an injury to his groin. At 5:00 a.m., he was back at his command to finish the arrest processing.

Arrest Paperwork

PO Pulice completed the arrest paperwork for Mr. Laguerre, who was charged with resisting arrest, disorderly conduct, and the following vehicle and traffic law violations: failure to produce an insurance card, illegal U-turn, and failure to signal (encl. E4-6). PO Pulice noted in the narrative that Mr. Laguerre did not produce a valid registration and insurance card, and when Mr. Laguerre stepped out of the vehicle, he swung and "flared" his arms, kicked, and refused to place his hands behind his back. PO Pulice marked that physical force was used to restrain the defendant and that an officer was injured in regards. The invoice section did not note any property vouchered.

Criminal Court Complaint and Supporting Deposition

In the criminal court complaint and supporting deposition, PO Pulice indicated that Mr. Laguerre was verbally abusive and highly agitated. Mr. Laguerre also pushed an officer before they attempted to place him under arrest (encl. E7-10). PO Pulice also noted that Mr. Laguerre resisted arrest by "flaring" his arms and legs, preventing PO Pulice from handcuffing him.

Line of Duty Injury Report

PO Pulice wrote: "While attempting to effect a lawful arrest, defendant did kick and flail arms, preventing me from handcuffing defendant. During the struggle I did injure my left groin" (encl. G7-9).

CCRB Statement

On July 11, 2012, PO Pulice provided a statement to the CCRB (encl. E11-15).

On [REDACTED] 26, 2012 at approximately 11:35 p.m., PO Pulice pulled over Mr. Laguerre at Guy R. Brewer Boulevard and 110th Road in Queens. Mr. Laguerre had made a left turn without signaling onto 111th Avenue and then made an illegal U-turn onto Guy R. Brewer Boulevard. PO Garofalo sat in the front passenger seat and PO Cullinan sat in the back seat. Mr. Laguerre did not pull into a legal parking zone. PO Pulice stopped the police car half a car length behind Mr. Laguerre's. The area was not well-lit.

All three officers exited the car. PO Pulice walked to the driver's side and his partners walked to the passenger's side. Mr. Laguerre screamed, "This is racist, this is bullshit." PO Pulice did not see anything displayed inside Mr. Laguerre's hatchback-style car. The interior lights of Mr. Laguerre's car were off. PO Pulice made no remarkable observations about Mr. Laguerre body movements or clothing.

PO Pulice asked Mr. Laguerre for his license, registration, and insurance. Mr. Laguerre was irate and said, "Who the fuck are you, why are you stopping me, is it because I'm black?" PO Pulice explained the stop, and asked for Mr. Laguerre's documents five times. Mr. Laguerre continued to allege racism and did not produce the documents.

Mr. Laguerre was fidgeting with his hands and turning his body away from PO Pulice. PO Pulice was unable to see Mr. Laguerre's right hand. PO Pulice stated that this was abnormal because motorists would pull out their wallet for their license. PO Pulice then opened Mr. Laguerre's car door to see what Mr. Laguerre was doing. Once the door was opened, Mr. Laguerre stopped fidgeting. Mr. Laguerre then

produced his license. PO Pulice did not see from where Mr. Laguerre retrieved his license. PO Pulice told him to stay there and relax. PO Pulice did not pursue the issue of Mr. Laguerre's other documents.

PO Pulice went back to his car to perform a name check, at which point PO Garofalo and PO Cullinan moved over to the driver's side. While in the police car, PO Pulice heard Mr. Laguerre screaming something undiscernible. PO Pulice looked up and saw Mr. Laguerre step outside of his vehicle. PO Pulice did not hear either of his partners instruct Mr. Laguerre to do so. PO Garofalo was standing a foot or two behind Mr. Laguerre, whose back was to PO Garofalo. PO Garofalo had his right arm extended at a 90-degree angle which PO Pulice interpreted as gesturing for Mr. Laguerre to move to the rear of the vehicle. PO Garofalo's hand did not make contact with Mr. Laguerre. PO Cullinan was standing four feet away from Mr. Laguerre.

PO Pulice had just stepped out of the vehicle when he saw Mr. Laguerre turn around. Mr. Laguerre waved his arm, moving back PO Garofalo's outstretched arm. In the process, Mr. Laguerre's arm almost hit PO Garofalo's face. PO Pulice did not hear any conversation between the officers and Mr. Laguerre leading up to or immediately following this moment. When PO Pulice saw that Mr. Laguerre had almost struck PO Garofalo's face, PO Pulice deemed Mr. Laguerre to be under arrest and ran over. PO Garofalo and PO Cullinan "just stood there." Neither officer reacted to Mr. Laguerre. Mr. Laguerre then stared at PO Garofalo and moved forward with his fists clenched. PO Pulice did not know what Mr. Laguerre was going to do next.

Within seconds, PO Pulice reached Mr. Laguerre and, without saying anything, used his fist to punch Mr. Laguerre once on the left side of his face. Mr. Laguerre did not respond to the punch. PO Pulice and his partners grabbed Mr. Laguerre's arms and hands. Mr. Laguerre continued to wave his arms and move around his legs. It took a minute for the officers to handcuff Mr. Laguerre. PO Pulice did not see his partners punch or otherwise strike Mr. Laguerre.

After he was handcuffed, Mr. Laguerre was frisked by one of the officers. Mr. Laguerre was not frisked prior to being handcuffed. The officers decided to bring Mr. Laguerre's car back to the precinct stationhouse because "it was safer than leaving it on the streets." PO Pulice got into the driver's seat to make sure that there was nothing valuable inside the car. PO Pulice was the only officer involved in safeguarding the car. PO Pulice did a visual sweep of the visible contents of the car. PO Pulice touched only the middle console, the seat area, and anything visible. He did not recall the specific contents of the car. The glove compartment was already open from when Mr. Laguerre opened it to look for paperwork earlier. PO Pulice did not enter the glove compartment. Mr. Laguerre's vehicle was a hatchback-style car so the trunk contents were visible. He popped the trunk from a side handle and did a visual sweep of the trunk contents. Other than the driver's seat, PO Pulice did not enter any other part of the car.

PO Cullinan drove Mr. Laguerre's car as PO Pulice was unfamiliar with a stick shift. The vehicle was not vouchered since it was not arrest evidence. The car was later released to Mr. Laguerre's uncle.

PO Pulice was presented with the supporting deposition and stated that the push he noted referred to Mr. Laguerre's pushing of PO Garofalo's hand. PO Pulice sustained a strain to his groin in the process of handcuffing Mr. Laguerre. It was not inflicted by Mr. Laguerre.

Subject Officer: PO JOSEPH GAROFALO

- *PO Garofalo is a 43-year-old, 5'10" tall, 180-lb white man with brown hair and brown eyes.*
- *On [REDACTED] 26, 2012, PO Garofalo had the same assignment as PO Pulice. PO Garofalo worked from 5:30 p.m. on [REDACTED] 26, 2012 to 5 a.m. on [REDACTED] 27, 2012.*
- *PO Garofalo has a black tattoo on his inner right arm composed of three Chinese characters.*

Memo Book

At 12:05 a.m., PO Pulice arrested [Mr. Laguerre] for disorderly conduct and resisting arrest (encl. E16-18). At 2:00 a.m., PO Garofalo escorted PO Pulice to Long Island Jewish Hospital.

CCRB Statement

On July 11, 2012, PO Garofalo provided a statement to the CCRB (encl. E19-22). He generally corroborated PO Pulice's statement, and any additions and discrepancies are noted below.

PO Garofalo made no observations about the contents of the car. Mr. Laguerre's hands were in view, moving up and down and side to side. No officer issued directives addressing the hand movements.

PO Garofalo did not see from where Mr. Laguerre retrieved his license. After PO Pulice went back to the police vehicle, PO Garofalo stood by the driver's side door and PO Cullinan was at the rear of the vehicle. Mr. Laguerre continued to make the same aforementioned hand movements and because PO Garofalo could not tell whether he was reaching for anything, PO Garofalo asked Mr. Laguerre to step out of the car. PO Garofalo made no observation about Mr. Laguerre's clothing and did not specifically suspect Mr. Laguerre of being armed.

PO Garofalo extended his hand behind Mr. Laguerre's back, without making physical contact, and motioned for him to go to the rear of the vehicle, so that Mr. Laguerre could not easily reenter the vehicle. Mr. Laguerre said, "Get away from me," jerking his arm back and almost hitting PO Garofalo in the head. PO Garofalo stepped backwards and said, "This is completely unacceptable." PO Garofalo did not have time to physically react. Immediately, PO Pulice ran over and threw a punch to Mr. Laguerre's head. PO Garofalo did not see the punch connect with Mr. Laguerre's head. PO Pulice told Mr. Laguerre he was under arrest. PO Garofalo denied striking Mr. Laguerre or seeing PO Cullinan do so. It took two minutes to handcuff Mr. Laguerre.

Afterwards, PO Garofalo stood with Mr. Laguerre by the police car. He saw PO Cullinan enter the driver's seat of Mr. Laguerre's car before driving it away. PO Garofalo did not see any other officer enter or search the car.

Subject Officer: PO MICHAEL CULLINAN

- *PO Cullinan is a 36-year-old, 5'10" tall, 165-lb white man with red hair and brown eyes.*
- *On [REDACTED] 26, 2012, PO Cullinan had the same assignment as PO Pulice and PO Garofalo. PO Cullinan worked from 5:30 p.m. on [REDACTED] 26, 2012 to 3:05 a.m. on [REDACTED] 27, 2012.*

Memo Book

At 12:05 a.m., PO Cullinan marked one arrest by PO Pulice (encl. E23-24). At 2:00 a.m., PO Cullinan transported [Mr. Laguerre] to Queens Central Booking.

CCRB Statement

On July 11, 2012, PO Cullinan provided a statement to the CCRB (encl. E25-27). His statement was consistent with that of his partners, and any additions or discrepancies are noted below.

Upon approach, Mr. Laguerre was moving his arms and torso. PO Cullinan could not tell if Mr. Laguerre reached for anything in his car. He did not see where Mr. Laguerre's hands were. No officer issued any directive regarding Mr. Laguerre's body movements.

After PO Pulice walked to the police car, PO Cullinan remained by the front passenger's side while PO Garofalo moved to the driver's side. PO Garofalo asked Mr. Laguerre to step out and move to the rear. PO Cullinan did not observe PO Garofalo make physical contact with Mr. Laguerre. PO Cullinan observed Mr. Laguerre say, "Don't touch me," and make an upward motion with his arm. This motion did not make contact with PO Garofalo. PO Cullinan did not hear or see PO Garofalo respond. At this time, PO Pulice came and, without saying anything, threw a punch at an unknown part of Mr. Laguerre's body. PO Cullinan did not see the punch land. Beyond this point, no additional force was used other than grabbing Mr. Laguerre's arms. PO Cullinan did not punch Mr. Laguerre.

PO Cullinan drove Mr. Laguerre's vehicle to the stationhouse. PO Cullinan did not look through the glove compartment or any other part of the vehicle. PO Cullinan saw PO Pulice lean into the driver's side of the vehicle but did not observe PO Pulice's activities inside.

Medical Records

On [REDACTED] 28, 2012, Mr. Laguerre went to see Dr. Jimmy Katechis, his private doctor who is based in Astoria, Queens (encl. F1-7). A physical examination was performed with the following findings: tenderness of the left jaw and tenderness without swelling of the right temporal area. Mr. Laguerre was diagnosed with contusions to his left neck and right temporal areas. Mr. Laguerre was advised to use icepacks and take ibuprofen.

NYPD Documents

SPRINT Index

The SPRINT index showed no relevant jobs in the vicinity of the incident location (encl. G1).

Command Log

The arrest entry for Mr. Laguerre on the 113th Precinct Tour 1 Command Log entry on [REDACTED] 27, 2012 noted his physical and mental condition as apparently normal (encl. G2-5). No property was listed as removed or vouchered from his person. The rest of the Tour 1 Command Log entry contained no notation of Mr. Laguerre's vehicle.

Property Voucher

No record of property or evidence vouchers associated with Mr. Laguerre's arrest was available (encl. J15).

Line of Duty Injury Report

PO Pulice was granted a line of duty designation for a strain to his left groin muscle (encl. G7-9).

Arrest for Incident and Disposition

As of May 31, 2013, a check of the Office of Court Administration database revealed no record of Mr. Laguerre's arrest (encl. I2-9).

Status of Civil Proceedings

As of August 13, 2012, almost a month past the 90-day filing deadline, Mr. Laguerre had not filed a Notice of Claim against the City of New York regarding the incident (encl. I1).

Civilian Criminal History

As of May 31, 2013, a check of the Office of Court Administration database revealed no criminal convictions for Mr. Laguerre (encl. I2-9).

Civilian CCRB History

- This is the first CCRB complaint filed by Mr. Laguerre (encl. C4).

Subject Officers CCRB History

- PO Pulice has been a member of the service for 10 years and there are two substantiated CCRB allegation against him (encl. C1).
 - In CCRB case number 200411089, the CCRB substantiated a refusal to provide a name and shield allegation against PO Pulice, and in [REDACTED] 2006, the NYPD administered instructions.

- In CCRB case number 200606723, the CCRB substantiated a vehicle search allegation against PO Pulice, and in November 2007, the NYPD administered instructions.
- PO Garofalo has been a member of the service for eight years and there are no substantiated CCRB allegations against him (encl. C2).
- PO Cullinan has been a member of the service for eight years and there are no substantiated CCRB allegations against him (encl. C3).

Conclusion

Identification of Subject Officers

PO Pulice, PO Garofalo, and PO Cullinan all acknowledged interacting with Mr. Laguerre.

Mr. Laguerre provided accurate and distinct physical descriptions of PO Pulice, PO Garofalo, and PO Cullinan, but alleged that PO Garofalo initially interacted with him, that PO Garofalo opened the car door, and that PO Pulice drove the car back to the stationhouse. Because the subject officers' statements and reports were generally consistent as to PO Pulice's initiation of the vehicle stop, PO Garofalo's request for Mr. Laguerre to exit the car, and PO Pulice's check of Mr. Laguerre's vehicle, the investigation credited the officers' statements of the nature and scope of their respective interactions with Mr. Laguerre. Therefore, a frisk allegation is pleaded against PO Garofalo, physical force allegations are pleaded against PO Pulice and PO Cullinan, and a vehicle search allegation is pleaded against PO Pulice.

Investigative Findings and Recommendations

Allegations Not Pleased

Because Mr. Laguerre was arrested for failure to signal and making an illegal U-turn, a vehicle stop allegation is not pleaded.

- **Allegation A– Abuse of Authority: PO Joseph Garofalo frisked Philippe Laguerre.**

Mr. Laguerre stated that once he stepped out of his car, PO Garofalo ordered him to place his hands on his car and frisked Mr. Laguerre's waist, pockets, hips, and thighs. No officer indicated that a frisk took place prior to Mr. Laguerre being handcuffed. In the absence of additional evidence or witness testimony, the investigation was unable to determine if PO Garofalo frisked Mr. Laguerre prior to his arrest. Therefore, it is recommended that Allegation A be closed as *unsubstantiated*.

- **Allegation B- Force: PO David Pulice used physical force against Philippe Laguerre.**

It is undisputed that PO Pulice punched Mr. Laguerre in the face.

Mr. Laguerre stated that PO Garofalo instructed him to step to the rear of the car so that officers could conduct a vehicle search. When Mr. Laguerre questioned the legality of the search, PO Pulice punched him on his left cheek. This was the first time Mr. Laguerre had physical contact with an officer.

PO Pulice and PO Garofalo stated that PO Garofalo was guiding Mr. Laguerre with an outstretched arm to the rear of the vehicle when Mr. Laguerre waved his arm, almost hitting PO Garofalo in the face. PO Pulice added that he saw Mr. Laguerre push PO Garofalo's arm back, which PO Garofalo and PO Cullinan did not corroborate. PO Pulice made this observation while stepping out of the police car. PO Pulice stated that at that point, he deemed Mr. Laguerre to be under arrest. PO Pulice ran towards Mr. Laguerre and punched him once on the left side of his face.

The officers consistently stated that PO Pulice responded immediately to Mr. Laguerre's action. PO Pulice stated that PO Garofalo and PO Cullinan "just stood there." PO Pulice stated that Mr. Laguerre did not react to the punch and the officers struggled to get his arms behind his back.

PO Pulice documented the push in the Criminal Court Complaint.

The arrest photo and a photo Mr. Laguerre provided of his mouth show a scrape or other discoloration to his bottom right lip. Mr. Laguerre's medical records indicated that Mr. Laguerre had tenderness to his left jaw and was diagnosed with a contusion to his left neck.

Patrol Guide Procedure 203-11 states that an officer may use the minimum amount of force necessary to overcome resistance to effect an arrest (encl. A1-2).

Mr. Laguerre admitted verbally resisting the directive to move to the rear of the vehicle, but he denied making any physical contact with the officers. While PO Pulice stated that he saw Mr. Laguerre push PO Garofalo, neither of his partners made any statements to that effect. PO Pulice stated that he deemed Mr. Laguerre to be under arrest the moment Mr. Laguerre pushed and almost hit PO Garofalo.

PO Pulice was the officer farthest from Mr. Laguerre but was the first officer to react to the alleged push and make physical contact with Mr. Laguerre. The punch to the face did not create any lasting or severe injuries to Mr. Laguerre. Subsequent to the punch, no officer indicated that any additional force was needed beyond grabbing Mr. Laguerre's arms.

Given the discrepant statements, the investigation was unable to determine whether Mr. Laguerre pushed PO Garofalo. The investigation was thus unable to determine if PO Pulice used excessive force when he punched Mr. Laguerre. Therefore, it is recommended that Allegation B be closed as *unsubstantiated*.

- **Allegation C- Force: PO Michael Cullinan used physical force against Philippe Laguerre.**

Mr. Laguerre stated that PO Cullinan punched him on the right side of his head. PO Cullinan indicated that the only physical force he used was grabbing Mr. Laguerre's arms. PO Pulice and PO Garofalo did not witness this allegation. Mr. Laguerre's arrest photos showed no swelling to the right side of Mr. Laguerre's head. Mr. Laguerre's medical records showed that he was diagnosed with a contusion to his right temporal area but that the injury was limited to tenderness without swelling. In the absence of additional evidence or witness testimony, the investigation was unable to determine if PO Cullinan punched Mr. Laguerre. Therefore, it is recommended that Allegation C be closed as *unsubstantiated*.

- **Allegation D- Abuse of Authority: PO David Pulice searched the vehicle in which Philippe Laguerre was an occupant.**

It is undisputed that after Mr. Laguerre was handcuffed, PO Pulice entered Mr. Laguerre's vehicle and opened the trunk. It is undisputed that nothing was recovered from the search. It is undisputed that Mr. Laguerre's vehicle had a hatchback trunk. It is undisputed that the vehicle car was taken to the 113th Precinct stationhouse but was not vouchered as property or arrest evidence, and no inventory search was conducted. No documentation was prepared regarding Mr. Laguerre's vehicle.

The officers consistently stated that they did not make any remarkable observations about the contents of Mr. Laguerre's vehicle or Mr. Laguerre's body movements when inside the car. PO Pulice indicated that although Mr. Laguerre was fidgeting in his seat, Mr. Laguerre ceased the movements after PO Pulice opened his car door. PO Garofalo noted that while he was unable to see what Mr. Laguerre's hands were doing inside the car, he did not suspect Mr. Laguerre of being armed.

As for the vehicle, PO Pulice stated that Mr. Laguerre's car was not arrest evidence and described his activities inside the car as "safekeeping" before the car was driven to the stationhouse. PO Pulice explained that Mr. Laguerre's car was brought to the stationhouse because he believed it was safer than leaving it in the streets. PO Pulice stated that he remained in the driver's seat and touched only the middle console, the seat area, and "anything visible." PO Pulice stated that the glove compartment was already open, but denied entering the glove compartment. PO Pulice stated that he wanted to make sure that there was nothing valuable inside the car. He was unable to describe the items he touched. The investigation determined that PO Pulice conducted an inventory search at the scene.

PO Cullinan confirmed that PO Pulice was leaning into the driver's seat area. PO Garofalo did not witness this allegation.

Mr. Laguerre denied making any movement inside his vehicle other than opening and reaching into his glove compartment. Mr. Laguerre stated that as he was held against the hood of his car, he saw PO Pulice go through his glove compartment, check the front passenger seat, and the trunk.

An officer may search a vehicle if there is probable cause to believe that the vehicle contains evidence or contraband. People v. Galak, 81 N.Y.2d 463 (1993) (encl. A3-6). Patrol Guide Procedure

218-13 states that the purpose of an inventory search of a vehicle is to protect property, ensure against claims of theft, and protect police personnel and others from any dangerous instruments (encl. A7-8). In addition, the same Patrol Guide section states that trunks do not need to be opened if the contents are in plain view. Furthermore, a meaningful inventory list must be produced, even if a vehicle search was otherwise conducted in accordance with reasonable standardized procedure for an inventory search. People v. Gomez, 50 A.D.3d 407 (2008) (encl. A7-18).

No officer articulated a suspicion that Mr. Laguerre was harboring contraband inside the car. PO Pulice's explanation of "safekeeping" is not sufficient reason for him go beyond a visual sweep and touch "anything visible." PO Pulice stated that because Mr. Laguerre's car had a hatchback trunk, he was able to already observe the contents of the trunk through the window. This admission renders more surprising that PO Pulice would persist in opening the trunk to conduct a visual sweep of the items inside. PO Pulice's opening of the trunk was therefore gratuitous in nature, casting doubt on whether his activities inside the rest of Mr. Laguerre's car were in fact limited.

Moreover, PO Pulice indicated that since the car was not arrest evidence, no inventory search was conducted. However, PO Pulice's explanation of "safekeeping" as touching anything visible and checking to make sure that there was nothing valuable in the car is consistent with the definition of an inventory search. PO Pulice failed to establish the circumstances that would justify opening a closed trunk and he failed to document the items inside the car as required under an inventory search. PO Pulice did not show that that his search was conducted in accordance with an established procedure that limits the conduct of individual officers. In a situation late at night where a civilian is outnumbered by officers and where the civilian was already in custody, PO Pulice's "safekeeping" search could potentially have been used as excuse to discover incriminating evidence unrelated to Mr. Laguerre's initial arrest.

Based on the above, the investigation determined that PO Pulice improperly searched Mr. Laguerre's vehicle. Therefore, it is recommended that Allegation D be closed as ***substantiated***.

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____

	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date